

March 30, 1989

LB 143, 213

SENATOR LABEDZ: Is there any further discussion on the advancement of LB 143? Senator Baack, would you like to close? Senator Baack waives closing. We're now voting on the advancement of LB 143 to E & R Initial. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays, Madam President.

SENATOR LABEDZ: LB 143 is advanced. Mr. Clerk, LB 213.

ASSISTANT CLERK: LB 213 was introduced by Senator Landis. (Read title.) The bill was read for the first time on January 9th, referred to Government Committee. They report the bill advanced to General File.

SENATOR LABEDZ: Senator Landis.

SENATOR LANDIS: Thank you, Madam Chairman, members of the Legislature. The Administrative Procedures Act is an act that establishes a standard set of practices for our administrative agencies, such as the Department of Banking, the Department of Insurance, Health and Human Services, to handle internal administrative issues in an adversarial relationship, one in which the department would have to make a ruling based on a hearing. Once that agency decision is made, those agency decisions can then be challenged in court by being taken to the district court. And the way we've worded our law now, when the issue goes to the district court, the issue is, did the administrative agency make a mistake, were they in error, were they arbitrary, were they capricious? And the court examines the record of the...that was before the agency, but it is reviewing that record to see whether or not there is evidence on the record of agency error. It does not redecide the basic issue that the agency heard and decided, it simply oversees what the agency did and say were they arbitrary in acting as they chose to act. When you then appeal the case from the district court to the Supreme Court, we now allow for a de novo on the record decision by the Supreme Court. The court at this level is saying did the administrative agency reach the right conclusion, not were they arbitrary or capricious, but were they right. And that is a much broader area. So, what happens is you have these administrative decisions going to the district court for a very minimal review, with a great deal of discretion and deference given to the agency, followed by a Supreme Court